IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 3.2.2007

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THE HONOURABLE MR.JUSTICE R.SUDHAKAR

Writ Petition No.5585 of 1999

1.Tmt.Maragadammal,
2.V.Sabitha,
3.V.Shanthi,
4.V.Raja Ayya Durai,
5.V.Vijayalakshmi,
6.V.Swami. .. Petitioners

-Vs.-

1.The Government of Tamil Nadu,
represented by its Secretary,
Aadhi Dravida Welfare Office,
Dindigul.

2.District Collector,
Dindigul.

3.Special Tahsildar,
Special Aadhi Dravida Welfare Office,
Nilakottai,
Dindigul. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari, calling for the records from the file of the second respondent in his proceedings No.Na.Ka.60/99 described as 60/89 dated 11.2.1999 published in the Dindigul District Gazette Extraordinary No.4 dated 16.2.1999 and quash the same.

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For petitioners : Mr.Sajeev Kumar
for Mr.B.S.Gnanadesikan

For respondents : Mr.A.Edvin Prabhakar,
Government Advocate.

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O R D E R

The Writ Petition is filed for a certiorari calling for the records from the second respondent in his proceedings No.Na.Ka.60/99 described as 60/89 dated 11.2.1999 published in the Dindigul District Gazette Extraordinary No.4 dated 16.2.1999 and quash the same.

2. It is stated in the affidavit filed in support of the petition that the petitioners are owners of certain extent of land in Muthalapuram, Sevagampatti village, Nilakottai Taluk. First petitioner is the mother and the other petitioners are sons and daughters. Coming to know about the proposed acquisition by the authorities concerned, the first petitioner addressed a letter dated 17.9.1998 to the following authorities:-

1) Village Administrative Officer, Sevagampatti,
2) District Collector, Dindigul,
3) Revenue Divisional Officer, Dindigul,
4) Tahsildar, Nilakottai,
5) Special Tahsildar, Aadi Dravida Welfare, Nilakottai and
6) Revenue Inspector, Nilakottai.

All the six communications were duly acknowledged by the authorities and copies of such acknowledgments are annexed in the documents set filed along with writ petition. Having moved over to the new residence at 57, Sattampillai Street, Dindigul, petitioners were under the impression that as and when acquisition proceedings are taken, they will be duly intimated. However, to their surprise, they received notice dated 1.3.1999 in form stating that the enquiry for compensation will be held on 17.3.1999 in respect of their land and to submit their objections. From this notice, petitioners came to understand that Notification under Section 4(1) of the Land Acquisition Act, had been issued on 11.2.1999 and published in the Dindigul District Gazette on 16.2.1999. Aggrieved by such proceedings, the present writ petition has been filed.

3. Though several grounds have been raised in the writ petition, in view of the above stated factual aspects, the writ petition itself can be disposed of on this issue which is very glaring and apparent and has occasioned the miscarriage of justice.

4. The specific case of the petitioners is that all the authorities as above have been put on notice about the change of the residential address to 57, Sattampillai Street, Dindigul as early as on 17.9.1998 and acknowledged on 18.9.1998, 19.9.1998 and 21.9.1998. The so-called notice under Form-I in terms of Section 4(2) of the Land Acquisition Act is claimed to have been issued on 12.11.1998. Such notice was not served on the petitioners. The non-service of the notice under Section 4(2) of the Land Acquisition Act is fatal to the acquisition proceedings.

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5. A counter-affidavit has been filed by the authorities in which it is stated that the notice under Form-I in terms of Section 4(2) of the Land Acquisition Act was sent to the last known address of the petitioners and has been returned unserved and therefore, the claim should be rejected.

6. In view of the specific averment of the petitioners that the authorities have been put on notice about the change of address and having acknowledged such notice, there was no justification in not serving the petitioners on the address duly specified and intimated. The non-service of notice under Section 4(2) of the Land Acquisition Act will be fatal to the acquisition proceedings.

7. Learned Government Advocate fairly submits that in the event of the Court is inclined to interfere with the acquisition proceedings for the above reason, liberty may be given to the authorities to pursue the matter afresh, if so required.

8. In this case, it is very clear that the petitioners have duly informed the authorities about the change of address shortly before the issuance of Form-I notice. Therefore, the authorities cannot plead ignorance. Having acknowledged the notice/intimation about the change of address, they have failed to issue the notice to the correct address (changed address), but proceeded with the matter based on the premise that the notice has been returned unserved. No further steps appear to have been taken by the authorities. It is also not the case of the Department that notice was attempted to serve on other petitioners and there was a refusal by any one of them. In such view of the matter, the violation of the statutory provision will be a good ground to interfere with the acquisition proceedings and accordingly, the notice under Section 4(1) of the Land Acquisition Act, is set aside. The respondents are at liberty to proceed with the matter afresh, if so advised. The writ petition is ordered accordingly. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To
1.The Secetary,
Aadhi Dravida Welfare Office,
Dindigul.

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2.District Collector,
Dindigul.

3.Special Tahsildar,
Special Aadhidravida Welfare Office,
Nilakottai,
Dindigul.

+ 1 CC To Mr. B.S.Gnanadesikan, Advocate SR NO.6387

+ 1 CC to the Government Pleader SR NO 6405

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